injuries caused thereby. *Held,* that evidence showing that an officer to whom notice would be sufficient had passed the place several days before the accident occurred was not sufficient to warrant a finding by the jury of actual notice. Williams, J., *dissenting.*

This case follows the decision in *Smith v. Rochester,* 79 Hun. 174. But it is difficult to harmonize these cases with the decisions on what constitutes actual notice. The term "actual notice" is sometimes used in the broad sense of constructive notice. *Am. & Eng. Enc. Law,* Vol. 21, p. 582. By the weight of authority the requirement of actual notice is satisfied whenever the authorities by reasonable diligence might have had knowledge. *McVee v. Watertown,* 92 Hun. 310; *Lyman v. Green Bay,* 91 Wis. 488. Some courts lay down broadly the principle that constructive notice, where the facts are uncontroverted, is for the court. *Birdsall v. Russell,* 29 N. Y. 249; *Claflin v. Lenheim,* 66 N. Y. 306. But the application of this principle to municipal corporations is opposed to the weight of authority. *Todd v. Troy,* 61 N. Y. 510; *Decatur v. Bestin,* 169 Ill. 340.

MUNICIPAL CORPORATION—INJUNCTION—PRIVATE PARTY AS PLAINTIFF.—AMUSEMENT CO. V. CITY, 74 PAC. 606 (KAS.).—The owner of a theatre sought to restrain city officers from allowing the use of public buildings for lectures and entertainments for private profit. *Held,* that his damages differing only in degree from those sustained by the general public, the action could not be maintained.

Before a person can maintain an action of this kind, he must show some interest peculiar to himself. *Mikesell v. Durkee,* 34 Kas. 509; *Davis v. New York,* 9 N. Y. Supp. Ct. 663. But in the application of this well settled principle there is considerable conflict. It has repeatedly been held that where a schoolhouse is used for religious meetings and entertainments an injunction will be granted against such use on the application of a taxpayer where his property, books and pencils were injured by such use. *School Dist. v. Wood,* 13 Mass. 193; *School Dist. v. Arnold,* 21 Wis. 657; *Spencer v. School Dist.,* 15 Kas. 259. In a few cases it has been held that such use of a schoolhouse might be enjoined at the instance of a taxpayer whose only damage consisted in the illegal use of the building. *Scofield v. School Dist.,* 27 Conn. 499, and cases therein cited. The facts in the principal case show a loss of profit upon the part of the theatre owner which, on its face, is a damage, different in kind as well as in degree from that suffered by the general public, and the decision thus seems contrary to the settled weight of authority.

MUNICIPAL CORPORATIONS—PURCHASE—INCUMBRANCES.—STATE V. TOPEKA, 74 PAC. 647 (KAS.).—*Held,* that the city may purchase a system of waterworks subject to an incumbrance.

The precise question in the principal case is presented for the first time. Though a municipal corporation may acquire property; *Windham v. Portland,* 4 Mass. 384; and has the right to secure the purchase price by giving a mortgage; *Eddy v. City,* 26 La. Ann. 636; it is well settled that a city cannot dispose of property of a public nature in violation of the trusts upon which it is held. *Dillon, Mun. Corps.,* sec. 575; *Meriwether v. Garret,* 102 U. S. 472. Waterworks owned by a city are deemed to be held in trust; *New Orleans*